



[6450-01-P]

DEPARTMENT OF ENERGY

[Case No. 2017-010]

Notice of Petition for Waiver of AeroSys Inc. (AeroSys) from the Department of Energy Central Air Conditioners and Heat Pumps Test Procedure, and Notice of Grant of Interim Waiver

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, grant of an interim waiver, and request for comments.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from AeroSys seeking an exemption from the U.S. Department of Energy (DOE) test procedure for determining the efficiency of central air conditioners and heat pumps. AeroSys seeks to use an alternate test procedure to address issues involved in testing certain basic models identified in its petition. According to AeroSys, testing the basic models of space constrained central air conditioners and heat pump units listed in its petition exclusively with coil-only indoor units (as required by the DOE test procedure), rather than with blower-coil indoor units (as they are distributed in commerce), will overstate their energy usage. Energy usage of coil-only tests for these models will be overstated because the default value for wattage required by the DOE coil-only test method exceeds the actual wattage of the high-efficiency motors used in the blower-coil indoor units with which the AeroSys models listed in its petition are paired in the field. AeroSys seeks to use an alternate test procedure to test and rate their basic models listed in its petition. AeroSys proposes to waive the DOE test procedure requirement to test these basic models with coil-only indoor units and instead, test with blower-coil indoor units in accordance with 10 CFR part 430, subpart B, appendix M, as applicable. This notice also announces that DOE grants

AeroSys an interim waiver from the DOE central air conditioners and heat pumps test procedure for its specified basic models, subject to use of the alternative test procedure as set forth in the Order. DOE solicits comments, data, and information concerning AeroSys' petition and its suggested alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the AeroSys Petition until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments, identified by case number "2017-010" and Docket number "EERE-2017-BT-WAV-0042", by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* AeroSys2017WAV0042@ee.doe.gov. Include the case number [Case No. 2017-010] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, Petition for Waiver Case No. 2017-010, 1000 Independence Avenue, SW., Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC, 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Docket: The docket, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at <http://www.regulations.gov>. All documents in the docket are listed in the <http://www.regulations.gov> index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket Web page can be found at <https://www.regulations.gov/document?D=EERE-2017-BT-WAV-0042-0001>. The docket Web page will contain simple instruction on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 287-1604. E-mail: AS_Waiver_Requests@ee.doe.gov.

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-9496. E-mail: Peter.Cochran@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Background and Authority

Title III, Part B¹ of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, which includes central air conditioners and heat pumps.² Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B requires the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for central air conditioners and heat pumps is contained in 10 CFR part 430, subpart B, appendix M (referred to in this notice as “appendix M”).

DOE’s regulations set forth at 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a covered product when the petitioner’s basic model for which the petition for waiver was submitted contains one or more design characteristics that either (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii).

¹ For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

² All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 11-115 (January 12, 2018).

DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the *Federal Register* a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the *Federal Register* a final rule. 10 CFR 430.27(l).

The waiver process also allows DOE to grant an interim waiver if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) publish in the *Federal Register* a determination on the petition for waiver; or (ii) publish in the *Federal Register* a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

AeroSys' Petition for Waiver of Test Procedure and Application for Interim Waiver

On May 29, 2017, AeroSys filed a petition for waiver and an application for interim waiver from the CAC and HP test procedure set forth in 10 CFR part 430, subpart B, appendix M. AeroSys' request for a prospective waiver from certain provisions in 10 CFR part 430, subpart B, appendix M1, which is the test procedure applicable to central air conditioners and heat pumps after January 1, 2023, is premature and will not be considered by DOE at this time. Once compliance is required with appendix M1, AeroSys is free to submit any application for a

waiver from the test procedure it believes necessary, and DOE will consider that application at such time.

According to AeroSys, testing the space constrained basic models listed in its petition³ with coil-only indoor units (as required by the DOE test procedure), rather than with blower-coil indoor units (as they are distributed in commerce), will overstate their energy usage. Energy usage of coil-only tests for these models will be overstated because the default value for wattage required by the DOE coil-only test method exceeds the actual wattage of the high-efficiency motors used in the blower-coil indoor units with which the AeroSys models listed in its petition are paired in the field. AeroSys seeks to use an alternate test procedure to test and rate the basic models listed in its petition. AeroSys proposes to waive the DOE test procedure requirement to test these basic models with coil-only indoor units and instead, test with blower-coil indoor units in accordance with 10 CFR part 430, subpart B, as applicable.

AeroSys also requests an interim waiver from the existing DOE test procedure. An interim waiver may be granted if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

³ The specific basic models for which the petition applies are central air conditioner basic models THDC-18PGA, THDC-18PGB, THDC-18RGA, THDC-18SGB, THDC-18TGB, THDC- 24PGA, THDC-24PGB, THDC-24RGA, THDC-24SGB, THDC-24TGB, THDC-30PGB, THDC-30RGA, THDC-30SGB, THDC-30TGB, TTWC-R18P21, TTWC-R18R21, TTWC- R18S21, TTWC-R18T21, TTWC-R24P21, TTWC-R24R21, TTWC-R24S21, TTWC-R24T21, TTWC-R30P21, TTWC-R30R21, TTWC-R30S21, TTWC-R30T21, TTWH-R18H21, TTWH- R24H21, TTWH-R30H21, TTWC-R36H21. These basic model names were provided by AeroSys in its May 2017 petition.

Requested Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures to make representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, and after consideration of public comments on the petition, DOE will consider setting an alternate test procedure for the equipment identified by AeroSys in a subsequent Decision and Order.

As an alternate test procedure, AeroSys proposes that the basic models listed in the petition be tested according to the test procedure for central air conditioners and heat pumps prescribed by DOE at 10 CFR part 430, subpart B, appendix M, as applicable, except for the requirement under 10 CFR 429.16 that represented values for each model of outdoor unit be determined based on testing with a model of a coil-only indoor unit that is the least efficient indoor unit distributed in commerce with that particular outdoor unit. Instead, AeroSys requests that the specified basic models be tested and representations be determined by pairing the models only with blower-coil indoor units.

Summary of Grant an Interim Waiver

DOE conducted a review of AeroSys' public-facing materials, including websites, marketing materials, product spec sheets, labels, installation manuals, other consumer facing

disclosures, etc. to confirm that these materials support AeroSys' assertions set forth in the petition about how they distribute the specified basic models in commerce. The public-facing materials that DOE found state that these models are "sold and intended for use only with blower coil indoor units," "AeroSys is not responsible for the performance and operation of a mismatched system," and "Installers are encouraged to match to air handlers that are approved by AeroSys and listed in the [CCMS/AHRI] database." All materials reviewed by DOE can be found in the docket. DOE understands from AeroSys' petition that, absent an interim waiver, AeroSys' specified models cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the alternate test procedure suggested by AeroSys and concludes that it will allow for the accurate measurement of the efficiency of these specified models, while alleviating the testing problems associated with AeroSys' implementation of CAC and HP testing. DOE has determined that AeroSys' petition for waiver will likely be granted and that it is desirable for public policy reasons to grant AeroSys immediate relief pending a determination of the petition for waiver.

For the reasons stated, DOE has granted AeroSys' application for interim waiver for its specified basic models of space constrained central air conditioners and heat pumps. The substance of DOE's Interim Waiver Order is summarized below.

Therefore, DOE has issued an **Order**, stating:

(1) AeroSys must test and rate the CAC and HP basic models listed in paragraph (A) with the alternate test procedure set forth in paragraph (2):

(A) THDC-18PGA, THDC-18PGB, THDC-18RGA, THDC-18SGB, THDC-18TGB, THDC- 24PGA, THDC-24PGB, THDC-24RGA, THDC-24SGB, THDC-24TGB, THDC-30PGB, THDC-30RGA, THDC-30SGB, THDC-30TGB, TTWC-R18P21, TTWC-R18R21, TTWC- R18S21, TTWC-R18T21, TTWC-R24P21, TTWC-R24R21, TTWC-R24S21, TTWC-R24T21, TTWC-R30P21, TTWC-R30R21, TTWC-R30S21, TTWC-R30T21, TTWH-R18H21, TTWH-R24H21, TTWH-R30H21, TTWC-R36H21

(2) The applicable method of test for the AeroSys basic models listed in paragraph (1)(A) is the test procedure for CAC and HP prescribed by DOE at 10 CFR part 430, subpart B, appendix M, except the determination of represented value requirements and units required for test per 10 CFR 429.16(a)(1), (b)(2) and (b)(2)(i) shall be as detailed below. All other requirements of 10 CFR part 429.16 remain applicable.

In 429.16(a), *Determination of Represented Value*:

(1) Required represented values for single-split system space-constrained AC with single-stage or two-stage compressor. Determine the represented values (including SEER, EER, HSPF, SEER2, EER2, HSPF2, PW, OFF, cooling capacity, and heating capacity, as applicable) for the individual models/combinations (or “tested combinations”) specified in the following table.

Category	Equipment subcategory	Required represented values
<i>Outdoor Unit and Indoor Unit (Distributed in Commerce by OUM)</i>	<i>Single-Split System Space-Constrained AC with Single-Stage or Two-Stage Compressor</i>	<i>Every individual combination distributed in commerce, including all coil-only and blower coil combinations. For each model of outdoor unit,</i>

		<i>this must include the least efficient combination distributed in commerce with the particular model of outdoor unit.</i>
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In 429.16(b), *Units tested*:

(2) Individual model/combination selection for testing of single-split system space-constrained AC with single-stage or two-stage compressor. (i) The table identifies the minimum testing requirements for each basic model that includes multiple individual models/combinations; if a basic model spans multiple categories or subcategories listed in the table, multiple testing requirements apply. For each basic model that includes only one individual model/combination, test that individual model/combination.

Category	Equipment subcategory	Must test:	With:
<i>Outdoor Unit and Indoor Unit (Distributed in Commerce by OUM)</i>	<i>Single-Split System Space-Constrained AC with Single-Stage or Two-Stage Compressor</i>	<i>The model of outdoor unit</i>	<i>A model of indoor unit.</i>

(3) *Representations*. AeroSys is permitted to make representations about the efficiency of the basic model listed in paragraph (1) for compliance, marketing, or other purposes only to the extent that the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.16 and 10 CFR part 430, subpart B, appendix M.

(4) This interim waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(h) and (k).

(5) This interim waiver is issued to AeroSys on the condition that: (1) The statements, representations, test data, and documentary materials provided by the petitioner are valid, (2) AeroSys continues to distribute the specified basic models for exclusive installation with blower-coil indoor units; (3) All public-facing materials, including websites, marketing materials, product spec sheets, labels, nameplates, etc., make no representations that these basic models be installed in any other way; and (4) All public-facing materials state that these models are: “sold and intended for use only with blower coil indoor units. AeroSys is not responsible for the performance and operation of a mismatched system. Installers are encouraged to match to air handlers that are approved by AeroSys and listed in the [CCMS/AHRI] database.” DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, the above listed conditions are not met, or the results from the alternate test procedure are unrepresentative of the basic model’s true energy consumption characteristics.

(6) Granting of this interim waiver does not release AeroSys from the certification requirements set forth at 10 CFR part 429, other than those explicitly stated in paragraph (2).

DOE makes decisions on waivers and interim waivers for only those models specifically set out in the petition, not future models that may be manufactured by the petitioner. AeroSys may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of central air conditioners and heat pumps. Alternatively, if appropriate, AeroSys may request that this interim waiver (or subsequent waiver, if applicable) be extended to additional basic models employing the same technology as basic models specifically set out in this petition (see 10 CFR 430.27(g)).

Summary and Request for Comments

Through this notice, DOE announces receipt of AeroSys' petition for waiver from the DOE test procedure for certain basic models and announces DOE's decision to grant AeroSys an interim waiver from the test procedure for the basic models listed in AeroSys' petition. DOE is publishing AeroSys' petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information. The petition includes a suggested alternate test procedure, as specified in section III of this notice, to determine the energy consumption of AeroSys' specified space constrained central air conditioner and heat pump basic models. DOE may consider including the alternate procedure specified in the Order in a subsequent Decision and Order.

DOE invites all interested parties to submit in writing by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, comments and information on all aspects of the petition, including the suggested alternate test procedure and calculation and rating methodology. DOE also seeks comment and data on AeroSys' assertion that it exclusively distributes the space constrained air conditioner and heat pump basic models as blower-coil installations. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Scott Blake Harris, Harris, Wiltshire & Grannis LLP, 1919 M Street, NW, Washington, DC 20036.

Submitting comments via <http://www.regulations.gov>. The <http://www.regulations.gov> web page will require you to provide your name and contact information. Your contact

information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through <http://www.regulations.gov> before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to <http://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one

copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC, on May 17, 2018.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency,

Office of Technology Development,

Energy Efficiency and Renewable Energy.

**BEFORE THE
UNITED STATES DEPARTMENT OF
ENERGY WASHINGTON, D.C. 20585**

In the Matter of
Energy Efficiency Program: Test Procedure for Testing Space-Constrained Trough-the-Wall
Condensing Units
Docket No. EERE-2009-BT- TP-0004; RIN 1904- AB94

PETITION OF AEROSYS INC. FOR WAIVER OF TEST PROCEDURE FOR
SPACE-CONSTRAINED THROUGH-THE-WALL CONDENSING UNITS

AeroSys Inc. respectfully submits this Petition for Waiver and Application for Interim

Waiver¹ of the Department of Energy's (DOE) test procedure for testing space-constrained
through-the-wall (TTW) condensing units.²

AeroSys is a small American manufacturer of air conditioning equipment, including
space- constrained TTW condensing units. It is located at 929 Eldridge Drive, Hagerstown,
MD 21740. Phone: (301) 620-0002; fax: (301) 620-0685; <http://www.aerosysinc.com>.

The space-constrained TTW condensing units listed in Appendix I meet the criteria for
a waiver.³ The inclusion of coil-only tests in conjunction with these space-constrained TTW
condensing units will evaluate these basic models in a manner so unrepresentative of their true
energy characteristics as to provide materially inaccurate comparative data. DOE "will grant a
waiver from the test procedure requirements" in these circumstances.⁴

Indeed, DOE has already recognized this specific situation and has solicited waiver requests

¹ See 10 C.F.R. § 430.27 (waiver and interim waiver).

² *Id.* Part 430, Subpart B, Appendix M (test procedure for central air conditioners and heat pumps).

³ *Id.* § 430.27(f)(2).

⁴ *Id.*

to resolve it.⁵

AeroSys asks that a waiver be granted to allow it to use an alternate test procedure that provides for testing these basic models with blower coil testing instead of coil-only tests. This will more accurately measure the energy consumption of these products.

I. BASIC MODELS FOR WHICH A WAIVER IS REQUESTED.

The basic models for which a waiver is requested are the models set forth in Appendix I. They are manufactured by AeroSys in the United States and are distributed in commerce under the AeroSys brand name.

II. NEED FOR THE REQUESTED WAIVER.

AeroSys manufactures space-constrained TTW condensing units. These products are beneficial in a number of special settings, such as multi-story residential applications with limited space. AeroSys' models are certified for use with high efficiency blower coil indoor units (air handlers).

Due to the space-constrained nature of the TTW condensing units, they are sold and intended for use only with high efficiency blower coil indoor units fitted with ECM motors. At no time has AeroSys sold these models with anything other than blower coil indoor units. This is clearly stated in AeroSys' public-facing materials. For example, a sales brochure states:

AeroSys TTWC-R**H Series units are sold and intended for use only with blower coil indoor units. To see a list of approved air handlers please go to www.aerosysinc.com/certified-ratings.⁶

Such statements also are on the AeroSys website⁷ and in Installation, Operation, and

Maintenance Manuals.⁸

⁵ Fed. Reg. 1427, 1462 (Jan. 5, 2017).

⁶ See AeroSys Sales Brochure, Thru-The-Wall TTWC-R Series Condensing Unit Catalog, 1-1/2 To 2-1/2 Ton Capacity, at <http://www.aerosysinc.com/files/170523%20SALES%20LIT/TTWC-Condensing%20Unit%201.5%20TO%202.5%20TON%20CATALOG%20R170526.pdf>.

⁷ See <http://www.aerosysinc.com/products/1/thru-the-wall-condensing-1-to-25-ton>.

Testing these models with coil-only combinations, rather than in the intended manner with blower coil indoor units, will overstate energy usage and thus would not reflect the models' true energy characteristics. That is because the default value for wattage in coil-only testing exceeds the actual wattage of the high efficiency motors used in the AeroSys models.

DOE has addressed this situation and recently solicited waiver requests to deal with it.⁹ DOE acknowledged that the text of its current regulations does not provide for an exclusion for coil-only testing for blower coil indoor units. It then solicited waiver requests to remedy the problem:

If a manufacturer believes that coil-only testing of a product is not appropriate because the basic model is only sold and installed exclusively with blower coil indoor units, the manufacturer may petition DOE for a test procedure waiver showing that installation is exclusively blower coil and requesting a blower coil test.

This reasoning applies squarely to AeroSys' situation. AeroSys has conferred with DOE about applying for a waiver.

Requiring testing of the models in Appendix I with coil-only combinations will effectively eliminate such products due to the default value for wattage in coil-only testing. It will cause grave economic hardship for AeroSys – jeopardizing the company's viability. It will also create substantial difficulty for the housing industry, which will be deprived of these beneficial products.

III. PROPOSED ALTERNATE TEST PROCEDURE.

AeroSys proposes the following alternate test procedure to evaluate the performance of the basic models listed in Appendix I.

⁸ See AeroSys Installation Operation and Maintenance Manual, TTWC Series Through-The-Wall Condensing Units, at [http://www.aerosysinc.com/files/IOM%20TTW%20R170524/TTWC-R\(X\)%20IOM%201.5%20TO%202.5%20TON%20R052317.pdf](http://www.aerosysinc.com/files/IOM%20TTW%20R170524/TTWC-R(X)%20IOM%201.5%20TO%202.5%20TON%20R052317.pdf).

⁹ 82 Fed. Reg. at 1462.

AeroSys shall be required to test the performance of the basic models listed in Appendix I according to the test procedure for central air conditioners and heat pumps

prescribed by DOE at 10 C.F.R. Part 430, Subpart B, Appendix M or Appendix M1 (when effective), as applicable, except as follows:

The basic models shall not be subject to coil-only testing or rating and shall instead be tested using a blower-coil test in accordance with 10 C.F.R. Part 430, Subpart B, Appendix M or Appendix M1 (when effective), as applicable. The waiver should continue until DOE adopts an applicable amended test procedure.

IV. REQUEST FOR INTERIM WAIVER.

AeroSys also requests an interim waiver for its testing and rating of the foregoing basic models. DOE “will grant an interim waiver” if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.⁸ AeroSys warrants an interim waiver under these criteria.

The petition for waiver is likely to be granted, as evidenced by its merits. And immediate relief is warranted based on public policy reasons. Without waiver relief, AeroSys will be subject to requirements that should not apply to such products. These useful products will be effectively eliminated, causing grave economic hardship for AeroSys and negative effects for housing.

V. OTHER MANUFACTURERS.

A list of manufacturers of all other basic models distributed in commerce in the United States and known to AeroSys to incorporate design characteristic(s) similar to those found in the basic model(s) that are the subject of the petition is set forth in Appendix II.

VI. CONCLUSION.

⁸ *Id.* § 430.27(e)(2).

DOE should grant AeroSys the requested waiver and interim waiver for the models listed in Appendix I. Further, AeroSys requests expedited treatment of the Petition and Application. It is also willing to provide promptly any additional information the Department thinks it needs to act with expedition.

Respectfully submitted,

Scott Blake Harris

John A. Hodges

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(202) 730-1330

Counsel to AeroSys Inc.

May 29, 2017

APPENDIX I

The waiver and interim waiver requested herein should apply to testing and rating of the following basic models.

THDC-18PGA, THDC-18PGB, THDC-18RGA, THDC-18SGB, THDC-18TGB, THDC-24PGA, THDC-24PGB, THDC-24RGA, THDC-24SGB, THDC-24TGB, THDC-30PGB, THDC-30RGA, THDC-30SGB, THDC-30TGB, TTWC-R18P21, TTWC-R18R21, TTWC-R18S21, TTWC-R18T21, TTWC-R24P21, TTWC-R24R21, TTWC-R24S21, TTWC-R24T21, TTWC-R30P21, TTWC-R30R21, TTWC-R30S21, TTWC-R30T21, TTWH-R18H21, TTWH-R24H21, TTWH-R30H21, TTWC-R36H21

APPENDIX II

The following are manufacturers of all other basic models distributed in commerce in the United States and known to AeroSys to incorporate design characteristic(s) similar to those found in the basic model(s) that are the subject of the petition for waiver.

First Co.

National Comfort Products

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